SINGLE BENCH

(4)

CF 1002

# IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 786 Of 2007

PETITIONER : Raj Kumar Pradhan S /o Late Shri Anurag Das Pradhan, aged about 25 years, Resident of Village Ghanwa, post office Tilai, Tahsil Janjgir , District Janjgir Champa (CG).

P.R. 9/2/07
Presented by A.K. Bhardwaj
dated 3/2/07

VERSUS

RESPONDENTS : 1.The State of Chhattisgarh, through the Secretary , School Education Department, Mantralay D.K.S. Bhawan, Raipur (CG).

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2. The Director, Public Instructions, Raipur (CG).

3. District Education Officer, Janjgir, District Janjgir Champa (CG).

4. Block Education Officer, Block Akaltara , District Janjgir Champa (CG).

OATH COMMISSIONER APARNA MALVIYA 31/01/07

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT/WRITS, ORDER/ORDERS, DIRECTION/DIRECTIONS ETC. IN THE NATURE OF MANDAMUS

AFR

Satish
9.2.07

(49)

## HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

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**Single Bench: Hon'ble Shri Satish K. Agnihotri, J.**

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**W. P. (S) No. 786 of 2007**

Petitioner : Raj Kumar Pradhan

Versus

Respondent : The State of Chhattisgarh & others

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Mr. Gary Mukhopadhyay, Advocate for the petitioner.

Ms. Sunita Jain, Panel lawyer for the respondents/State.

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**ORDER**

**(Passed on this 9th day of February, 2007)**

1. According to learned counsel appearing for the petitioner, the father of the petitioner, namely, Shri Anurag Das Pradhan, was working as Assistant Teacher in the School Education Department and was posted at Primary School Taga, Block Akaltara, District Janjgir-Champa, when he died on 25.12.1994 in harness.

2. The petitioner, being one of the dependants-legal hairs of the deceased, made an application for appointment on compassionate basis to the respondent No.4 in the month of July, 2004. The case of the petitioner was recommended to the respondent No. 3, but the respondents have not yet granted compassionate appointment to the petitioner.

3. Learned counsel appearing for the petitioner submits that the petitioner is entitled to appointment on compassionate basis.

4. The petitioner has filed this petition with unexplained and inordinate delay, seeking a direction to the respondents to grant compassionate appointment on the post of Assistant Grade-III. The father of the petitioner died on 25.12.1994 and the petitioner applied for compassionate appointment in the month of July, 2004.

5. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

6. In **Haryana State Electricity Board and another Vs. Hakim Singh**[1], the Supreme Court held that "the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member."

(57)

7. The Supreme Court in the case of **State of J & K and others Vs. Sajad Ahmd Mir**[2], in para 11 has held as under :-

> "11.....it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

8. In view of the above settled principles of law, there is no merit in this petition. The petition is accordingly dismissed summarily. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu

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1. (1997) 8 SCC 85
2. (2006) 5 S.C.C. 766